

Questions and Answers Regarding Endangered Species Act Protections for the Shovelnose Sturgeon

1. Why is the Service treating the shovelnose sturgeon as a threatened species?

The Service has determined that it is necessary to treat the shovelnose sturgeon as a threatened species under the Endangered Species Act (Act) due to its similarity of appearance to the endangered pallid sturgeon.

The Endangered Species Act authorizes the treatment of a species as endangered or threatened if (a) the species so closely resembles in appearance a listed species that law enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species; (b) the effects of this substantial difficulty is an additional threat to an endangered or threatened species; and (c) such treatment of an unlisted species will substantially facilitate the enforcement and further purposes of the Act. With regard to the shovelnose sturgeon, the Service believes each of these factors applies.

2. Why is it necessary to treat the shovelnose sturgeon as a threatened species in order to protect the pallid sturgeon?

The shovelnose sturgeon and the endangered pallid sturgeon inhabit overlapping portions of the Missouri and Mississippi River basins.

Shovelnose sturgeon so closely resemble pallid sturgeon that the two species are difficult to differentiate. Law enforcement personnel have difficulty in attempting to differentiate between the two sturgeon species. The roe of the two species cannot be distinguished by genetic analysis, making it difficult to enforce the regulations to prevent harvest of pallid sturgeon and their roe. Commercial harvest of shovelnose sturgeon has resulted in the harvest of pallid sturgeon. This harvest of pallid sturgeon significantly affects the survival and recovery of the species in some portions of its range.

The Service believes that protection of the shovelnose sturgeon will help conserve and protect the endangered pallid sturgeon.

3. In what areas will the shovelnose sturgeon be protected?

The Service will regulate the harvest of shovelnose sturgeon in areas where the shovelnose and pallid sturgeons' range commonly overlap.

Specifically, this includes the portion of the Missouri River in Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, and South Dakota; the portion of the Mississippi River in Arkansas, Kentucky, Illinois (downstream from Melvin Price Locks and Dam), Louisiana, Mississippi, Missouri (downstream from Melvin Price Locks and Dam), and Tennessee; the Platte River in Nebraska (downstream of Elkhorn River confluence); a portion of the Kansas River (downstream

from Bowersock Dam in Kansas); the Yellowstone River in North Dakota and Montana (downstream of the Bighorn River confluence); and the Atchafalaya River in Louisiana.

4. What protections will the shovelnose sturgeon receive as a threatened species?

The Service is also enacting a special rule that will prohibit the harvest of any shovelnose sturgeon or shovelnose–pallid sturgeon hybrids, and their roe associated with or related to a commercial fishing activity. Capture of shovelnose sturgeon or shovelnose-pallid sturgeon hybrids in any commercial fishing gear is not prohibited if it is accidental or incidental to otherwise legal commercial fishing activities, such as commercial fishing targeting non-sturgeon species, provided the animal is released immediately upon discovery, with all roe intact, at the point of capture.

The special rule will apply only to activities that relate to the harvest of shovelnose sturgeon and shovelnose-pallid sturgeon hybrids for commercial fishing purposes and is not expected to impact commercial fishing targeting non-sturgeon species, recreational or other non-commercial fishing activities. The special rule would not prohibit the legal commercial harvest of shovelnose sturgeon outside the range where the shovelnose and pallid sturgeons commonly overlap.

All otherwise legal activities involving shovelnose sturgeon and shovelnose–pallid sturgeon hybrids that are conducted in accordance with applicable State, Federal, Tribal, and local laws and regulations are not considered to be take under this final regulation.

“Take” is defined in the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

5. How does the special rule differ from the Similarity of Appearance listing of the shovelnose sturgeon?

The Similarity of Appearance determination is designed to address take of pallid sturgeon resulting from commercial sturgeon harvest of the shovelnose sturgeon. Under this determination, the shovelnose sturgeon will be considered threatened in the portions of its range where it commonly overlaps with the endangered pallid sturgeon. Due to the similarity of appearance between the two sturgeon species, identification of the protected pallid sturgeon is difficult in the field, resulting in pallid sturgeon being mistakenly harvested as shovelnose sturgeon. This determination will facilitate enforcement of current regulations protective of the pallid sturgeon by reducing the potential for intentional or incidental take resulting from commercial sturgeon harvest.

The special rule issued in this regulation describes take regulations that will be implemented through this action. This determination will prohibit the take of shovelnose sturgeon and shovelnose-pallid sturgeon hybrids which occurs as a result commercial sturgeon harvest methods. The special rule associated with the Similarity of Appearance determination provides an exemption to allow take of shovelnose sturgeon in those instances when a shovelnose/pallid

sturgeon hybrid is taken while engaged in legal commercial fishing of non-sturgeon species. Such take is allowed *provided* the fish is immediately released.

6. Why isn't the special rule limited to the four states that currently implement a commercial harvest?

If the Similarity of Appearance listing applied only to these four states, there is a concern that the remaining states would open or reopen commercial sturgeon harvest.

This would just move the problem to another portion of the pallid sturgeon range and do nothing to address continued illegal take of pallid sturgeon. Additionally, it would place significant constraints on enforcement personnel to ensure shovelnose sturgeon (both flesh and roe) were legally harvested.

7. Do people recreationally fish for sturgeon?

Yes, 10 states within the range of the pallid sturgeon have a recreational fishing season for shovelnose sturgeon. However, because of the number of anglers and amount of sturgeon harvest for private consumption, the potential for this harvest to result in take of pallid sturgeon is considered minimal.

8. Is there a commercial fishery for sturgeon other than for the roe?

Traditionally, sturgeon have been harvested for their flesh. Over the last few decades, wild stocks of sturgeon world-wide have suffered significant declines as harvest of sturgeon roe increased for caviar. Pressure on North American sturgeon stocks increased following the collapse of the caviar industry in Europe and Asia. Commercial harvest of sturgeon for flesh has always been a small part of commercial fish harvest.

9. Has the commercial harvest for sturgeon been increasing because of demand for caviar? What relationship is there between international caviar demand and this listing?

Recently commercial fishing pressure on shovelnose sturgeon in the Mississippi River has been substantial (23,000 pounds in 2007).

The current pressure on North American stocks is believed to be a result of the crash of traditional sources of caviar, primarily in the former Soviet Union. In fact, in 2005 the Service banned importation of beluga caviar because of the poor condition of the wild stocks. Consequently, to meet the existing demand for caviar, the market increasingly turned to United States domestic sturgeon and paddlefish stocks.

Unfortunately, increased fishing pressure was accompanied by documented cases of take of pallid sturgeon due, in large part, to its similarity of appearance to the shovelnose sturgeon. The extremely high price of caviar is a big incentive to those who are not concerned with legal harvest methods. Because the pallid and shovelnose sturgeon are so similar in appearance, it is also difficult to determine that roe was taken illegally. This limits effective enforcement of

existing regulations. This listing and accompanying special rule will protect the pallid sturgeon from take as a result of the shovelnose sturgeon harvest, in addition to improving our ability to track harvest and ensure it was obtained legally.

10. What is being done to recover the endangered pallid sturgeon?

The Missouri and Mississippi rivers historically provided ideal habitats for the pallid sturgeon. However, in the Missouri and Mississippi rivers of today the pallid sturgeon faces pressures from habitat alteration. Today, man-made changes to these rivers (i.e., dams, channel training structures, dredging, and levees) have fragmented habitat, altered spawning movements, changed temperature profiles, and altered the natural habitat forming process.

The Service is working with our partners to restore natural riverine processes necessary for the long-term ecological health of the Missouri and middle Mississippi rivers and the long-term conservation needs of federally-listed threatened and endangered species, including the pallid sturgeon. We set forth recommendations in biological opinions that will help achieve those goals. The long-term needs of the pallid sturgeon are also addressed in the Corps of Engineers Master Water Control Manual which regulates flows in the Missouri River.

The Service is also working with Federal and State partners to produce pallid sturgeon in hatcheries for release in suitable habitat as well as to preserve and restore suitable habitats.

Additional information on this species, including the species current recovery plan and progress implementing this plan, can be found online at:

<http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=E06X>; and
http://www.fws.gov/mountain-prairie/missouririver/moriver_pallidsturgeon.htm